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EXAMINER

ALVAREZ, RAQUEL

ART UNIT

PAPER NUMBER

3688

MAIL DATE

DELIVERY MODE

10/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. This office action is in response to communication filed on 7/3/2008.
2. Claims 65, 67-71 are presented for examination.
3. The terminal disclaimer filed on 7/3/2008 have been reviewed and approved.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Based on Supreme Court precedent ¹ and recent Federal Circuit decisions, a 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. ² If either of these requirements is met by the claim, the method is non a patent eligible process under § 101 and should be rejected as being directed to non-statutory subject matter.

Claims 65 and 70 are rejected under 35 U.S.C. 101 as drawn to a non-statutory subject matter. The applicant is reciting only method steps such as “receiving... standardizingfacilitating ...merging”, the applicant has not recited an apparatus or device to perform these limitations and without apparatus or device these limitations are just mental steps. Mentioning computer in the preamble is not enough, if the body of the claims each of the steps can be performed manually.

In claims 65 and 70 the steps are related to a mental process, which is not patentable. Indeed, it is not tied to another statutory class or does not change or switch statutory class (such as a particular apparatus or physical module or device) or does not transform the underlying subject matter (such as an article or materials) to a different state or thing. See MPEP §2106.IV.B: *Determine Whether the Claimed Invention Falls Within An Enumerated Statutory Category*.

Examiner suggests applicant inserts a device in one or more steps of the body of the claims in order to overcome this rejection.

¹ Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780, 787-88 (1876).

² The supreme court recognized that this test is not necessary fixed or permanent and may evolve with technological advances. Gottschalk v. Benson, 409 U.S. 63,71 (1972)

Allowable Subject Matter

The present invention is directed to matching a retailer item identifier with a manufacturer item identifier in order to derive a standard identifier.

5. The closest prior art are:
6. Awadallah (7,127,414) teaches comparison shopping through a user interface using commonly used methods for context based advertisements retrieval and presentation. An example of such system is Google Adwords, wherein a number of links to retailer web sites are returned based on the classification of a search term entered into the Google search engine.

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7. Deaton (6,292,786) teaches receiving product purchase information from a merchant at a POS. The product purchase information includes a UPC. The POS transmits the UPC to an UPC server in order to determine whether to offer an incentive to each customer.
8. Article titled, UK Retailers Loyal Customer Cards Wars prove costly” by Supermarket News teaches mailing loyal cards to consumers which contains targeted offers and menus.
9. Williams et al. (WO 00/33222) teaches presenting a consumer at a POS with a manufacturer incentive in order to incentivize the customer to said brands.
10. Blinn et. Al. (7,321,901) teaches manufacturers using a predefined schema to describe the features and specifications of their products in order to ensure uniformity of products specification data across manufacturers.
11. Christensen (6,035,280) teaches using product information data and consumer ID to determine the products and retailers from which the customer is buying products from.

With respect to independent claims 65, 70 and 72, the closest prior art alone or in combination fail to teach **“standardizing said transaction file using a retailer item identifier, where said standardizing characterizes at least one of a particular product or service across a plurality of retailers, wherein standardizing said transaction file comprises associating said retailer item identifier and a manufacturer item identifier, and deriving a standard identifier”**

Points Of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James w. Myhre can be reached on (571)272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/
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R.A.
10/12/2008